

**Testimony by Special Envoy for Holocaust Issues  
Randolph M. Bell  
Before the Helsinki Commission On  
Property restitution in Central and Eastern Europe  
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Mr. Chairman, and members of the Commission:

I want to thank you for this opportunity to address this Commission on the important issue of property restitution, one in which the Department of State has been involved for many years. I am pleased to play a part in the work of this esteemed Commission and I want to thank Congressman Smith in particular for his long-term commitment to the issue of property restitution and for hosting us on Capitol Hill.

It is a great honor and privilege to represent the United States of America as the Special Envoy for Holocaust Issues. I would like to open my participation in this hearing by stressing my dedication to continuing the work of my predecessors. The mission of the Office of Holocaust Issues remains to bring justice, however belated, to Holocaust survivors and other victims of World War II, and to ensure that the rights of all victims of Communism and Fascism are respected.

In order to achieve progress on the complicated issues of property restitution, we need cooperation - cooperation between Congress and the Department of State, between our government and the governments of the former eastern bloc countries, and between European institutions and aspirant nations. The Helsinki Commission and Congressional actions have been powerful assets as we work together to further the process of the restitution of property wrongfully seized by fascist and communist regimes. I hope to see this cooperation grow stronger in the coming years.

At this exciting time in history, a time when former communist nations are yearning to belong more fully to the West, a time when they are open to ideas of reconciliation with their pasts and fuller cooperation with democratic nations - at this pivotal time in history, we have an opportunity to help these countries achieve their full potential. As states in Central and Eastern Europe undertake the reforms they must complete in order to qualify for NATO and EU membership, they are examining the issue of property restitution and are looking to the United States for guidance. The United States Government has continually and specifically stressed to them that uniform, fair and complete restitution is a prerequisite both to adequate establishment of the rule of law and to the safeguarding of religious and minority rights and freedoms. We have stressed that, in joining the Euro-Atlantic mainstream and applying for membership in multilateral organizations, these countries are seeking to join a community of values. Membership involves continued and pervasive scrutiny of laws and practices for all of us. Consequently, we stress that the process a country creates for achieving restitution will be expected to continue and to achieve results. For countries invited to join the Alliance, this will be true after their accession to NATO as much as it has been in advance of their joining.

Mr. Chairman, property restitution in these countries arises as an issue because of actions taken by Nazi occupation regimes and the actions of the communist governments that acceded to power under the aegis of the then Soviet Union. In the countries they occupied, the Nazis relentlessly seized property that had any connection to Jews - communal property owned by the various Jewish communities, and private property owned by individual Jews, Roma and other victims. Valuable movable property such as artworks soon found its way into the hands of Nazi leaders or was converted into cash to fund the Nazi war effort; occupation regime officials took up residence in confiscated homes, and other properties, including synagogues, were used for commercial or other purposes.

When the war ended, there was some effort in several countries to return properties to their original owners, but the newly established communist governments soon reversed that process, preferring to use the confiscated property for their own purposes. For victims, the change in leadership did not alter the availability of their property -- they still did not enjoy its

use or have access to it. With minor exceptions, the essentials of this situation remained unchanged for the ensuing four decades.

The collapse of the Soviet Union and of its satellites presented an opportunity to reverse confiscations and to return property, real and movable, to rightful owners. We have supported that process for the past decade. There has been considerable progress in some areas, less in others. But the trend has been in the right direction.

In this connection, I want to pay special tribute to the efforts of Stuart Eizenstat, who started work on this matter while serving as the U.S. Ambassador to the European Union from 1994 to 1996 and continued his work on this subject while holding sub-cabinet positions at Commerce, State and Treasury. He sensitized the leaderships of the newly established democratic governments to the need to correct the injustices of the past as a pre-requisite to becoming participants in the free market world trading system and the community of democracies. His presentation to the 1998 Washington Conference on Holocaust Era assets established a framework for dealing with this issue.

The Bush Administration has continued to pursue restitution vigorously, engaging the countries of central and Eastern Europe, and particularly NATO aspirants. The Department takes this issue very seriously and is committed to monitoring and reporting on property restitution in the annual Country Reports on Human Rights Practices. Our embassies report regularly and actively on this subject.

In this effort we are working cooperatively with NGOs, including the American Jewish Committee, the American Joint Distribution Committee, the Polish American Congress, the Conference on Jewish Material Claims Against Germany and other NGOs. I am in frequent contact with ranking NGO representatives.

Property restitution is complicated and controversial. Changing the ownership and use of buildings and land from one party or purpose to another can cause major disruptions that already economically challenged countries can ill afford. In encouraging restitution, we try to keep in mind the following considerations:

- Restitution laws should govern both communal property owned by religious and community organizations, and private property owned by individuals and corporate entities.
- To document claims, access to archival records, frequently requiring government facilitation, is necessary. Reasonable alternative evidence must be permitted if archives have been destroyed.
- Uniform enforcement of laws is necessary throughout a country.
- The restitution process must be non-discriminatory. There should be no residence or citizenship requirement.
- Legal procedures should be clear and simple.
- Privatization programs should include protections for claimants.
- Governments need to make provisions for current occupants of restituted property.
- When restitution of property is not possible, adequate compensation should be paid.
- Restitution should result in clear title to the property, not merely the right to use the property.
- Communal property should be eligible for restitution or compensation without regard to whether it had a religious or secular use. Some limits on large forest or agricultural holdings may be needed.

- Foundations managed jointly by local communities and international groups may be appropriate to aid in the preparation of claims and to administer restituted property.
- Cemeteries and other religious sites should be protected from desecration or misuse before and during the restitution process.

Since I assumed the duties of Special Envoy on May 1, I have visited Slovenia, Slovakia, Bulgaria and Romania to talk specifically about property restitution issues. I have also participated in Washington reviews of the reform process with visiting delegations from other NATO aspirant states and closely reviewed the actual state of restitution in all these countries. I hope to visit several other countries as the summer and autumn progress. Ranking colleagues in the State and Defense Departments and at the National Security Council also have traveled to NATO-aspirant capitals and engaged delegations and Embassies here in Washington. They, too, have stressed the urgency of uniform and effective restitution procedures.

There are of course limitations on what the United States can properly do. Under accepted international law and practice, we can formally espouse individual claims - that is present a claim to a government - only under very specific circumstances. We therefore concentrate our efforts on urging countries to put in place fair, transparent, nondiscriminatory restitution processes that will cover broad categories of cases.

While we have neither the authority nor the resources to advocate individual claims, our Embassies and consulates abroad are able to help American citizen claimants understand what the legal requirements are in a specific country and to provide a list of attorneys who can assist in the preparation of an individual claim. One good example of this kind of assistance is the material on the website of our embassy in Bucharest. The site includes a description of the Romanian law and the process through which a claimant must go in order to qualify. It also provides a list of attorneys.

As I noted above, we divide property restitution into two broad categories, communal and private. Communal property is that which belonged to religious communities and included places of worship, schools and health facilities, community halls. Such properties provided the physical facilities used by the Jewish communities in the shtetels of pre-War central and eastern Europe. Christian organizations of most denominations also possessed properties, some of which was nationalized or otherwise confiscated by the communist regimes or earlier by the Nazis. These communal properties represent significant assets. The United States Government strongly supports the restitution of both private and communal property. Private claims directly affect U.S. citizens. Communal claims provide the economic wherewithal for small and struggling religious communities.

As indicated in the appended country-by-country summary, most countries have made substantial progress in the restitution of communal property. I would note that, of the NATO aspirants, Romania is the only country that does not have a law governing communal property restitution. During my visit to Bucharest in late June I was assured that a law was close to enactment. On June 25, the Romanian Parliament passed a bill providing for the restitution of communal property, excluding "places of worship", to the country's various religious groups. This bill is currently awaiting the President's signature. We have not yet obtained a text of this law.

I know that the Commission has had a particular interest in the fate of the property that the Romanian Government took from the Greek Catholic or Uniate Church in the late 1940's and which is now held by the Romanian Orthodox Church. During my visit, Romanian officials assured me that the communal property law now under consideration would treat this property fairly. The Department and our Embassy will monitor this issue carefully.

Poland's work in the communal property area is also worth special mention. In the 1990's Poland passed and successfully implemented separate laws dealing with property restitution for the major religious communities represented in that country. The Government of Poland has publicly stated that it intends to introduce new legislation providing all religious

communities additional time to apply for properties. This generous offer will be of considerable benefit to Poland's religious communities.

Private property presents a more diversified picture. Poland does not yet have a law governing private property restitution, although in some cases claimants have been able to regain property through court action. Poland has attempted to enact private property restitution legislation on several occasions, most recently in early 2001, but the subject is complex and politically controversial. The government has publicly announced that it intends to introduce such legislation in early 2003. We have been assured that the legislation will not contain citizenship or residence requirements.

Romania enacted private property legislation in February 2001. At our suggestion, the original application deadline of August 2001 was extended to February of this year. The adjudication process is now well under way. We have urged Romania to implement this law in a fair and nondiscriminatory manner.

The country-by-country summary that we are submitting to you today includes a great deal more detail about the property restitution situation in eastern and central Europe. The situation varies considerably from country to country and I do not believe that trying to deal with the detail here would be particularly enlightening. I know that many of you have been engaged in this issue for many years and no doubt have specific questions to pose. I will be pleased to answer them as best I can or will endeavor to obtain answers for you.